

SUPPORTING YOUR SPECIAL NEEDS STUDENT DURING COVID-19



*Loudoun County Public Schools SEAC Meeting
October 7, 2020
Virtual Presentation*

Purpose of Presentation

- What is a free appropriate public education (FAPE).
- Parental rights/procedural safeguards during COVID-19 and school reopening.
- Participation in virtual meetings.
- Supporting your child when engaged in distant learning.
- Dispute resolution.
- Respond to questions from participants.



Free Appropriate Public Education (FAPE)

- The key component of FAPE is the requirement that the services provided to a child with special needs must be “Appropriate” for that child.
- FAPE must be individualized.

Parental Rights and Procedural Safeguards



- The procedural safeguards outlined in the ***Regulations Governing Special Education Programs for Children with Disabilities in Virginia*** (aka the Virginia Regulations or “Purple Book”), at 8VAC20-81-170, have not been suspended or modified.

Participation in Meetings

- Federal and state special education regulations allow individualized education program (IEP) teams to use “alternative means of meeting participation, such as video conferences and conference calls.”
- All requirements related to the scheduling of special education meetings must be met.
- No matter the format of the meeting, all required participants—including parents—must be present and/or appropriately excused from the meeting.

IEP Addendums

- Used to make “minor” amendments or modifications to an IEP.
- Parent and school division may agree to make the changes without convening the child’s full IEP team.
- Develop a written document reflecting the changes.
- Prior written notice is required.

8VAC20-81-110.B.9

8VAC20-81-170.C

IEP Addendums - Continued

- If changes are agreed upon, the LEA must ensure that the child's IEP team is informed of the changes.
- Upon request, the parent shall be provided with a revised copy of the IEP with the amendments incorporated.
- An addendum is not a substitute for the required annual IEP meeting.

8VAC20-81-110.B.9.a-c

Supporting Your Child During Distant Learning

- If distance learning is going to be done (in whole or in-part), discuss your child's ability to use technology and his/her access to the technology resources (hardware and software, ZOOM, etc.), including reliable access to the Internet.
- If appropriate, share your observations, or that of others, with how your child responded to distant learning during the school closure period.
- As you deem appropriate, have your child explain his/her concerns and needs with the IEP team.

Supporting Your Child During Distant Learning - Continued

- Be clear on what you can expect from the school division.
 - Seek further clarification on what you do not understand
- Be clear on what is expected of you. Can you satisfy those expectations?
- Communicate with your child's IEP Team and case manager as often as needed.
- Understand that the school division must ensure that “appropriate” FAPE is provided.

Supporting Your Child During Distant Learning - Continued

- Understand the expectation for distance learning.
- Determine what type of activities work best for your child.
- Encourage movement.
- Reduce distractions.
- Adjust your schedule as needed.
- Use a checklist for focus.
- Give your child (and yourself) a break.
- Provide immediate positive feedback.

Credit: John Hopkins University School of Education

Parental Consent

- Parental consent regulations have not been waived or modified.
- Prior written notice required.
- Last agreed upon IEP.

Partial Parental Consent

VDOE FAQ 016-11 PARTIAL PARENTAL CONSENT TO IEP

- Partial parental consent is not prohibited by state or federal special education laws or regulations.
- VDOE has held historically and consistently that in such instances, the school division must implement those provisions on which the parties clearly agree and document what actions will be taken to resolve the items in dispute.

Partial Parental Consent - Continued

- If the parent's notations are illegible, consent boxes are unclearly identified, and/or the parent provides commentary that make it impossible to ascertain the parent's intentions to any degree of certainty, the IEP team may conclude that the parent has not "clearly" conveyed consent and provide the parent with prior written notice.
- If following an IEP team meeting but prior to consent, the parent provides notations attempting to add services or establishing conditions to the provision of services, another IEP team meeting needs to take place so that the other IEP team members review the additional requests and determine their appropriateness.

Partial Parental Consent - Continued

- Additionally, there may be some situations in which the IEP team believes that the parent's partial consent would actually impede the provision of FAPE.
- For instance, the parent and other team members agree on behavioral goals for the student, but the parent refuses consent for a more restrictive environment that the team contends will provide critical support for the achievement of the goals. In such cases, the team should provide prior written notice to the parent and consider available dispute resolution options.

RESOLVING DISPUTES

- **Keys to Resolution**

- ☐ Collaborative Communications
 - ☐ Two-way meaningful communication
 - ☐ Ask clarifying questions
 - ☐ Don't be afraid to say you don't understand
- ☐ Early identification
- ☐ Timely addressing of the issue
- ☐ Communicate concerns
 - Identify specific incidents
 - Provide facts
- ☐ Seek assistance using the school division's chain of supervision
 - Use your SEAC
- ☐ Seek assistance from the VDOE

RESOLVING DISPUTES

❑ BUILDING AND MAINTAINING RELATIONSHIPS

- Remove the emotions
- Understand that everyone involved is a “human being”
- Trust the “experts”
- Stay focused on the issue at hand
- Work in the present
- Work toward consensus
- Stay collegial
- Offer and listen to options

WHAT CAN YOU DO WHEN COLLABORATIVE EFFORTS ARE UNSUCCESSFUL IN REACHING RESOLUTION?



FACILITATED IEP

- General information
 - ☐ Voluntary for both parties
 - ☐ No cost
 - ☐ Qualified, trained, impartial facilitator
 - ☐ Facilitates the meeting process
 - ☐ Facilitator does not resolve disagreements

MEDIATION

- General information

- ☐ Voluntary for both parties
- ☐ No cost
- ☐ Qualified, trained, impartial mediator
- ☐ Not an employee of VDOE
 - Being paid by VDOE does not make them an employee
- ☐ Not an employee of school division that is party to dispute
- ☐ Mediator cannot have personal or professional interest
- ☐ Assigned by VDOE
 - From a list maintained by VDOE of qualified mediators
- ☐ High success rate in reaching agreement that both parties can agree to.
- ☐ Enforceable through court.

STATE COMPLAINT

- General information

- ☐ Violation that occurred no more than one year prior to VDOE's receipt of the complaint
- ☐ Filed by individual or organization
- ☐ If not parent or child at age of majority, must have consent to provide additional information
- ☐ Cannot be submitted anonymously
- ☐ Findings based on facts
 - ☐ Provide whatever form of documentation you have to support allegations
- ☐ 60 calendar day resolution process
- ☐ Can appeal findings

DUE PROCESS

- **General information**

- ☐ Parent or school division may, in writing, file a due process complaint with the VDOE on any matter associated with the identification, evaluation, educational placement, or provision of FAPE
- ☐ Must allege violations that occurred not more than two years before the date that the parent or school division should have known of the action forming the basis for the complaint
- ☐ The school division must inform the parent of the availability of mediation and any free or low-cost legal or other relevant services available

DUE PROCESS

- Resolution meeting
 - ❑ Within 15 days of receiving notice of the parent's due process notice, and prior to the initiation of the due process hearing, the school division **shall convene a meeting with the parent and the relevant member(s) of the IEP Team** who have specific knowledge of the facts identified in the due process notice that:
 - Includes a representative of the local educational agency who has decision making authority on behalf of the local educational agency; and
 - **May not include an attorney of the local educational agency unless the parent is accompanied by an attorney.**

DUE PROCESS

- ❑ The resolution meeting need not be held if:
 - the parent and the local educational agency agree in writing to waive the meeting;
 - the parent and the local educational agency agree to use the mediation process; or
 - if the local educational agency is the party that requests the due process hearing.

- ❑ The parent and the local educational agency determine the relevant members of the IEP team to attend the meeting.

DUE PROCESS

- ❑ A decision by the special education hearing officer in any hearing, including an expedited hearing is final and binding unless the decision is appealed by a party in a state circuit court within 180 days of the issuance of the decision, or in a federal district court within 90 days of the issuance of the decision.
- ❑ If the special education hearing officer's decision is not implemented, a complaint may be filed with the Virginia Department of Education for an investigation in accordance with the state complaint resolution process.

DUE PROCESS COSTS

- ❑ The parent(s) and the local educational agency are responsible for their respective attorneys' fees. If the parent(s) are the prevailing party, the parent(s) has the right to petition either a state circuit court or a federal district court for an award of reasonable attorneys' fees as part of the costs.

EXPEDITED DUE PROCESS

- ❑ When a parent of a child with a disability disagrees with any decision regarding a change in placement for a child who violates a code of student conduct, or a manifestation determination, or a local educational agency believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others.

Let's Check the Chat Room for Any Questions



"At the end of the day, the most overwhelming key to a child's success is the positive involvement of parents."

Jane D. Hull



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